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C.F100-P

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

W.P. NO. 1148 / 2001

PETITIONER : Itwari Ram son of Johit Ram aged about 27 years, resident of Paladi Khurd, Block Shakti Tehsil Shakti, district Janjgir Champa, Chhattisgarh.

VERSUS

RESPONDENTS

1. State of Chhattisgarh through the Secretary, Department of Panchayat, D.K.Bhawan, Raipur Chhattisgarh.

2. Collector, Janjgir, Chhattisgarh.

3. Additional Collector, Janjgir, Chhattisgarh.

4. Sub Divisional Officer, Shakti Distt. Janjgir, Chhattisgarh.

5. Tehsildar, cum Prescribed authority, Shakti, Janjgir Champa Chhattisgarh.

P. R. No. 1195/01
Presented By Shri Shekhar Sen
dated 12.7.2001

PETITION UNDER ARTICLES 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT IN THE NATURE OF CERTIORARI, MANDAMUS, PROHIBITION OR ANY OTHER WRIT, ORDER OR DIRECTION.

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P.1148/2001 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	7.8.2001 : Shri Rajiv Shrivastava for the petitioner. Mr.Gautam Bhaduri P.L. for the State. Heard. Return has been filed. While serving as Sarpanch of Gram Panchayat Paladi Khurd, a resolution was passed expressing no confidence on 31.3.2001 and hence the petitioner was sought to be removed from the post of Sarpanch. It is contended that after notice for consideration of no confidence motion was issued, venue was changed. However, having come to know about the change of venue,the writ petitioner himself participated though he took objection as regards the manner in which such resolution was moved on that date. Being aggrieved by the resolution of no confidence motion passed on 31.3.2001 the writ petitioner approached the collector. During the pendency of the matter before the Collector,the order of no confidence was stayed. However, when the matter came up for consi-deration,the learned Collector dismissed the appeal on the ground that it was barred by limitation for the period of two days in-as-much as whereas the rule provides filing ..2	

[पीछे देखिये

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित ..2..	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

of appeal within 7 days, the appellant had preferred the appeal before the Collector after nine days. Learned counsel for the petitioners submits that the petitioner had already made an application explaining the circumstances leading to delay of two days in filing the appeal. It is, therefore, submitted that the Collector ought to have examined the prayer for condonation of delay on merits and in fact it is contended that the petitioner has already made-out the case for condonation. Because of intervening holidays the petitioner was not able to get the certified copy in time, hence the delay.

It is submitted by the learned government advocate that the rule says that the appeal shall be filed within 7 days and rule being mandatory the learned collector was left with no alternative ~~xx~~ but to dismiss the appeal on the ground of delay.

On perusal of the impugned order and after hearing the counsel for the parties I am of the view that in the best interest of justice the learned Collector ought to have examined the appealon merit by condoning the delay. In this view of the matter the impugned order dt. 7.7.2001 passed in case No. 18-A/89 (15)/2000-2001 passed by Additional Collector Janjgir is set-aside. Delay of two days should stand condoned, for the ends of justice. Let appeal filed by the writ petitioner

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GRPRJ—FS/311—1/2001—50,000.

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

..3..

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
J	be decided on merits after hearing the parties. Let it be done at the earliest and not later than 10 days from today. Petition is thus disposed of. C.c. Sd/- Chief Justice	